

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KENNETH RAYMOND	:	
McKETTRICK,	:	
	:	Civil Action No. 4: 06-CV-329
Plaintiff,	:	
	:	(Judge McClure)
v.	:	
	:	(Magistrate Judge Blewitt)
TROY WILLIAMSON, et al.,	:	
	:	
Defendants	:	

ORDER

July 13, 2006

BACKGROUND:

On February 14, 2006, plaintiff Kenneth Raymond McKettrick, instituted, pro se, a Bivens civil rights action in the United States District Court for the Middle District of Pennsylvania. McKettrick is currently a federal prisoner incarcerated at United States Penitentiary (USP) Lewisburg, Lewisburg, Pennsylvania. In his original action plaintiff named two defendants, Troy Williamson, Warden of USP Lewisburg and an unknown John Doe defendant, who was the BOP Northeast Regional Director. Plaintiff had attempted to allege a Bivens claim against the federal employees on the basis of his constitutional rights under the due process clause and a first amendment retaliation claim. McKettrick

asserted that his constitutional rights were violated when he was placed in the special management unit (“SMU”).

On May 22, 2006, we adopted the magistrate judge’s March 21, 2006 report and recommendation in full. We ordered McKettrick’s due process claims dismissed for failure to state a claim upon which relief could be granted. We also found that it would be futile to grant McKettrick leave to amend these claims. However, we granted McKettrick leave to amend his First Amendment retaliation claim, and remanded the matter to the magistrate judge.

In accordance with our order McKettrick filed an amended complaint on June 13, 2006. Once again the magistrate judge has screened the amended complaint pursuant to 28 U.S.C. § 1915A. Now before the court is the magistrate judge’s report and recommendation that culminated from his screening. McKettrick has not filed any objections. For the following reasons we will adopt the magistrate judge’s report and recommendation in full, dismiss plaintiff’s Bivens claims against Defendant BOP, Defendants Lappin, Dodrill, Williamson, Mathews, and John Doe Defendants 1 to 100. Plaintiff shall be allowed to proceed on his amended complaint only with respect to his First Amendment retaliation claim against defendant Mconnell. The case will be remanded to the magistrate judge for further proceedings.

DISCUSSION:

I. RELEVANT LEGAL STANDARD

A district court reviews de novo those portions of a magistrate judge's report and recommendation to which a party objects. L.R. 72.3. The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." Id.

II. McKETTRICK'S AMENDED COMPLAINT

On June 13, 2006, plaintiff filed an amended complaint that named several additional defendants. We agree for the reasons set forth by the magistrate judge that plaintiff has failed to state a claim upon which relief can be granted as to all of these defendants except for Defendant McConnell. (Am. Compl., Rec. Doc. No. 14, at 4, ¶ 7.) It would be an inefficient use of judicial resources to repeat the reasons set forth by the magistrate judge in his thorough report and recommendation, so we adopt the reasoning set forth in that document. In addition we agree with the magistrate judge that should the plaintiff be able to identify any of the John Doe defendants later during discovery he can again request leave to amend his pleading.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Magistrate Judge Blewitt's report and recommendation is adopted in full.
(Rec. Doc. No. 15.)
2. McKettrick's claims against defendants BOP, Lappin, Dodrill, Williamson, Mathews, and John Doe Defendants 1 to 100 are dismissed.
3. McKettrick shall only be allowed to proceed with his First Amendment retaliation claim against defendant Mconnell.
4. The matter is remanded to the magistrate judge for further proceedings.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge